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Emblem



Ministry of Justice

The Republic of Korea government has changed its official “government identity.” The new logo conveys the dynamism and enthusiasm of the country with the three colors of blue, red and white. It echoes off Korea’s national flag Taegeukgi with the taegeuk circular swirl and the blank canvas embodies in white. The typeface

was inspired by the font used in the “Hunminjeongeum” (1446), the original Hangeul text, in consideration of the harmony embodied in the taegeuk circle. Starting March 2016, the new logo is used at all 22 ministries including the Ministry of Justice and 51 central government agencies.

ACT ON PROMOTION OF DEVELOPMENT AND DISTRIBUTION OF ENVIRONMENT-FRIENDLY MOTOR VEHICLES

Act No.18323, Jan 28, 2022



Article 1 (Purpose)

The purpose of this Act is to plan for the continuous development of the motor vehicle industry and for the improvement of living conditions of the citizens and to contribute to the national economy by establishing and implementing a comprehensive plan and policy to promote the development and distribution of environment-friendly motor vehicles.

Article 2 (Definitions)

The terms used in this Act are defined as follows: <Amended on Mar. 23, 2013; Dec. 2, 2016; Dec. 31, 2018; Apr. 2, 2019; Jul. 27, 2021>

1. The term "motor vehicle" means a motor vehicle or construction machinery falling under any of the following items, prescribed by Presidential Decree:

(a) Motor vehicles defined in subparagraph 1 of Article 2 of the Motor

Vehicle Management Act;

(b) Construction machinery defined in subparagraph 1 of Article 2 of the Construction Machinery Management Act;

2. The term "environment-friendly motor vehicle" means an electric vehicle, solar-powered vehicle, hybrid vehicle, and hydrogen electric vehicle provided in subparagraphs 3 through 8, or a vehicle that meets the environmental standards set by Ordinance of the Ministry of Trade, Industry and Energy among vehicles subject to permissible emission limits prescribed in Article 46 (1) of the Clean Air Conservation Act, and which is publicly announced by the Minister of Trade, Industry and Energy after consultation with the Minister of Environment, among the motor vehicles meeting the following requirements:

(a) Its energy efficiency shall meet the standards prescribed by Ordinance of the Ministry of Trade, Industry and Energy;

(b) It shall meet the standards for low-emission motor vehicles prescribed by Ordinance of the Ministry of Environment in accordance with subparagraph 16 of Article 2 of the Clean Air Conservation Act;

(c) Its technical specifications, such as the performance of a motor vehicle, shall meet the standards prescribed by Ordinance of the Ministry of Trade, Industry and Energy;

3. The term "electric vehicle" means a motor vehicle that uses electric energy charged from an electric power supply as its power source;

4. The term "solar-powered vehicle" means a motor vehicle that uses solar energy as its power source;

5. The term "hybrid vehicle" means a motor vehicle that uses a combination of gasoline, diesel fuel, liquefied petroleum gas, natural gas or fuel prescribed by Ordinance of the Ministry of Trade, Industry and Energy and electric energy (including electric energy charged from an electric power supply) as its power source;

6. The term "hydrogen electric vehicle" means a motor vehicle that uses electric energy generated by using hydrogen as its power source;

7. Deleted; <Dec. 2, 2016>

8. Deleted; <Dec. 2, 2016>

9. The term "hydrogen-fuel supply facility" means a facility for producing, storing, transporting, and charging hydrogen to supply hydrogen to hydrogen electric vehicles;

10. "Enterprise related to environment-friendly motor vehicles" means an enterprise which engages in business related to environment-friendly motor vehicles and which falls under any of the following:

(a) Enterprise that manufactures and assembles environment-friendly motor vehicles or their parts;

(b) Enterprise that produces or establishes and operates charging facilities for environment-friendly motor vehicles or hydrogen-fuel supply facilities;

(c) Other enterprises satisfying other criteria prescribed by Presidential Decree.

Article 3 (Master Plans for Development of Environment-Friendly Motor Vehicles)

(1) The Minister of Trade, Industry and Energy shall establish a master plan to promote the development and distribution of environment-friendly motor vehicles (hereinafter referred to as "master plan") every five years. In such cases, he or she shall hear the opinions of the heads of relevant central administrative agencies, such as the Minister of Environment, and the Special Metropolitan City Mayor, a Metropolitan City Mayor, a Special Self-Governing City Mayor, a Do Governor, or a Special Self-Governing Province Governor (hereinafter referred to as a "Mayor/Do Governor"), as prescribed by Presidential Decree. <Amended on Mar. 23, 2013; Jul. 27, 2021>

(2) Master plans shall include each of following matters:

1. Basic direction-setting for the development and distribution of environment-friendly motor vehicles;
2. Medium-and long-term goals for the development and distribution of environment-friendly motor vehicles;

3. Matters concerning the research and development of environment-friendly motor vehicles and the construction of infrastructure relating to the research and development thereof;

4. Matters concerning the construction of infrastructure necessary to distribute the power sources of motor vehicles, such as hydrogen-fuel supply facilities;

5. Other matters necessary for the development and distribution of environment-friendly motor vehicles.

(3) Master plans shall be finalized after deliberation by the State Council: Provided, That where insignificant matters prescribed by Presidential Decree are to be revised, such as a partial revision of direction set for projects to develop detailed technologies related to environment-friendly motor vehicles, no deliberation on such modification by the State Council is required.

(4) The head of a relevant central administrative agency may, where deemed necessary, request the Minister of Trade, Industry and Energy to revise the master plans. In such cases, the Minister of Trade, Industry and Energy shall hear the opinions of the heads of other relevant central administrative agencies and the relevant Mayor/Do Governor if he or she intends to revise them. <Amended on Mar. 23, 2013>

(5) Paragraph (3) shall apply mutatis mutandis to any revision of master plans under paragraph (4).

Article 4 (Implementation Plans for Development of Environment-Friendly Motor Vehicles)

(1) In order to implement the master plans, the Minister of Trade, Industry and Energy shall establish and promote an implementation plan for the development of environment-friendly motor vehicles (hereinafter referred to as "implementation plan for development") each year upon hearing the opinions of the heads of relevant central administrative agencies, as prescribed by Presidential Decree. <Amended on Mar. 23, 2013>

(2) Implementation plans for development shall include the following:

1. Priority field of technology development;
2. Main goals of promotion in each field of technology development;
3. Schedule and methods of promotion of technology development;
4. Matters concerning construction of infrastructure necessary for the efficient promotion of technology development projects;
5. Other matters necessary for technology development.

Article 5 (Implementation Plans for Distribution of Environment-Friendly Motor Vehicles)

(1) In order to implement the master plans, the Minister of Environment shall establish and promote an implementation plan for the distribution of environment-friendly motor vehicles (hereinafter referred to as "implementation plan for distribution") each year upon hearing the opinions of the heads of relevant central administrative agencies and of the relevant Mayor/Do Governor, as prescribed by Presidential Decree. In such cases, the Minister of Environment shall

consult with the Minister of Trade, Industry and Energy on the distribution of environment-friendly motor vehicles. <Amended on Mar. 23, 2013>

- (2) Implementation plans for distribution shall include the following:
1. Target areas in which environment-friendly motor vehicles are to be distributed;
 2. Models of environment-friendly motor vehicles and quantity to be supplied of each model;
 3. Matters relating to the construction of infrastructure, such as hydrogen-fuel supply facilities;
 4. Matters relating to funding plans and financial assistance standards;
 5. Matters necessary for the distribution of environment-friendly motor vehicles.
- (3) Each Mayor/Do Governor shall establish and implement a policy to accelerate the distribution of environment-friendly motor vehicles in accordance with master plans and implementation plans for distribution.

Article 6 (Technology Development Support Policies)

- (1) In order to accelerate technology development related to environment-friendly motor vehicles, the State may establish and promote support policies for the following matters:
1. Collecting and providing information on development of environment-friendly motor vehicle technology at home and abroad;
 2. Research and development and other activities concerning core environment-friendly motor vehicle technologies.
- (2) The Minister of Trade, Industry and Energy may require any of the following entities to conduct research and development projects on environment-friendly motor vehicles in order to promote technology development pursuant to paragraph (1): <Amended on Mar. 23, 2013; Mar. 22, 2016>
1. A national or public research institute;
 2. A research institute established under Article 8 of the Act on the Establishment, Operation and Fostering of Government-Funded Science and Technology Research Institutes;
 3. Specific research institutes established under Article 2 of the Specific Research Institutes Support Act;
 4. A research institute specializing in manufacturing technology established under Article 42 of the Industrial Technology Innovation Promotion Act;
 5. The Industrial Technology Research Cooperatives under the Industrial Technology Research Cooperatives Support Act;
 6. Universities, colleges, industrial colleges, junior colleges or technical colleges defined in Article 2 of the Higher Education Act;
 7. Business-affiliated research institutes recognized under Article 14-2 (1) of the Basic Research Promotion and Technology Development Support Act;
 8. Agencies, organizations or business entities relating to environment-friendly motor vehicles, as prescribed by Presidential Decree.

Article 7 (Promotion of Projects to Form Foundation for Technology)

In order to efficiently develop and distribute technology related to environment-friendly motor vehicles, the State may implement the following projects: <Amended on Jul. 27, 2021>

1. Projects for forming a foundation for technology;
2. Projects for international technological cooperation;
3. Projects for nurturing industrial technical human resources;
4. Projects for developing and verifying standards for environment-friendly motor vehicles;
5. Other projects prescribed by Presidential Decree.

Article 8 (Support for Fuel Producers)

- (1) The State or local governments may provide those who produce, supply, or sell hydrogen which is the fuel for hydrogen electric vehicles, or those who intend to install and operate a hydrogen-fuel supply facility (hereafter in this Article referred to as "hydrogen fuel producers, etc.") with the following: <Amended on Mar. 20, 2018; Dec. 31, 2018>
1. Fund needed to produce, supply, or sell hydrogen fuel, or to install and operate a hydrogen-fuel supply facility;
 2. Research and survey to improve the operational performance of hydrogen-fuel supply facilities;
 3. Support to facilitate the installation of hydrogen-fuel supply facilities in the private sector;
 4. Other matters relating to support for hydrogen fuel producers, etc., as prescribed by Presidential Decree.
- (2) Matters necessary for the standards, method, etc. of providing funds, etc. pursuant to paragraph (1) shall be prescribed by Presidential Decree.

Article 8-2 (Support for Charging Facilities)

- (1) If necessary to facilitate the distribution of environment-friendly motor vehicles, the State and local governments may provide enterprises related to environment-friendly motor vehicles with the following support:
1. Funding necessary to produce, supply, and sell or to establish and operate charging facilities for environment-friendly motor vehicles or hydrogen-fuel supply facilities;
 2. Research and surveys for the development and production of environment-friendly motor vehicles or their parts;
 3. Other matters prescribed by Presidential Decree in relation to support for enterprises related to environment-friendly motor vehicles.
- (2) Matters necessary for the standards, methods, and procedures, etc. for the support under paragraph (1) shall be prescribed by Presidential Decree.

Article 9 Deleted. <May 21, 2009>



Article 10 (Support for Purchasers or Owners of Environment-Friendly Motor Vehicles)

The State or local governments may provide the purchasers or owners of environment-friendly motor vehicles with necessary support.

Article 10-2 (Obligation of Public Institutions to Purchase Environment-Friendly Motor Vehicles)

- (1) When buying or renting a vehicle for business use, the head of a public institution under the Act on the Management of Public Institutions (hereinafter referred to as "public institution") and the head of a local public enterprise under the Local Public Enterprises Act (hereinafter referred to as "local public enterprise") shall make sure that the relevant vehicle environment-friendly motor vehicles make up at least a certain percentage of the total fleet of vehicles, as prescribed by Presidential Decree. <Amended on Jul. 27, 2021>
- (2) The Minister of Trade, Industry and Energy may make public a list of public institutions and local public enterprises that have failed to fulfill their obligations of purchase prescribed in paragraph (1).

Article 10-3 (Purchase Targets for Environment-Friendly Motor Vehicles)

- (1) Where any of the following persons (hereinafter referred to as "person eligible to purchase") prescribed by Presidential Decree purchases or rents vehicles for business purposes, the Minister of Trade, Industry and Energy may set purchase targets (hereinafter referred to as "purchase target") to require them to purchase at least a certain percentage of environment-friendly motor vehicles, where

deemed necessary to facilitate the distribution of environment-friendly motor vehicles: :

1. A person who engages in passenger transport business under subparagraph 3 of Article 2 of the Passenger Transport Service Act;
 2. A person who engages in car rental business under subparagraph 4 of Article 2 of the Passenger Transport Service Act;
 3. A person who engages in regular taxi transportation business under subparagraph 1 (a) of Article 2 of the Act on the Development of Taxi Transportation Business;
 4. A person who engages in trucking transport business under subparagraph 2 of Article 2 of the Trucking Transport Business Act;
 5. A business group subject to disclosure under the former part of Article 31 (1) of the Monopoly Regulation and Fair Trade Act.
- (2) The Minister of Trade, Industry and Energy shall set annual purchase targets for persons eligible to purchase, after consulting with the heads of relevant central administrative agencies, such as the Minister of Environment, and publicly notify said targets.
- (3) A person eligible to purchase shall annually formulate a purchase plan in accordance with annual purchase targets and submit said plan to the Minister of Trade, Industry and Energy.
- (4) When setting purchase targets, the Minister of Trade, Industry and Energy shall take into account the current status of development of environment-friendly motor vehicles, the management status of persons eligible to purchase such vehicles, and the like.
- (5) The Minister of Trade, Industry and Energy may require a person eligible to purchase to submit data necessary to ascertain whether his or her purchase target is met.

(6) The Minister of Trade, Industry and Energy may entrust the Korea Energy Agency established under Article 45 of the Energy Use Rationalization Act with the affairs necessary for ascertaining whether a purchase target is met.

Article 11 (Support for Operation of Environment-Friendly Motor Vehicles)

- (1) Mayors/Do Governors may require each owner of an environment-friendly motor vehicle to place an eco-friendly motor vehicle mark outside his or her vehicle to make the mark easily noticeable.
- (2) The State and local governments shall prepare necessary support measures for motor vehicles bearing the mark referred to in paragraph (1).
- (3) Matters necessary for the specification, etc. of the mark referred to in paragraph (1) shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended on Mar. 23, 2013>

Article 11-2 (Exclusive Parking Areas for Environment-Friendly Motor Vehicles)

- (1) The owner of any of the following facilities prescribed by Presidential Decree (where a separate person responsible for managing relevant facilities exists, referring to the manager) shall install charging facilities and exclusive parking areas for environment-friendly motor vehicles in the relevant facilities, as prescribed by Presidential Decree: <Amended on Jul. 27, 2021>"
1. Public buildings and public-use facilities;
 2. Multi-family housing;
 3. Parking lots installed by the Special Metropolitan City Mayor, a Metropolitan City Mayor, a Do Governor or a Special Self-Governing Province Governor, a Special Self-Governing City Mayor, or the head of a Si/Gun/Gu;
 4. Other buildings and facilities that need to be installed to distribute environment-friendly motor vehicles, and any other facilities incidental thereto.
- (2) A person who installs exclusive parking areas under paragraph (1) shall have facilities for charging environment-friendly motor vehicles in the relevant exclusive parking area in accordance with the standards prescribed by Presidential Decree. <Newly Inserted on Jul. 27, 2021>
- (3) A Mayor/Do Governor shall install at least one hydrogen filling station in an innovation city under subparagraph 3 of Article 2 of the Special Act on the Construction and Development of Innovation Cities or in an adjacent area prescribed by Presidential Decree. <Newly Inserted on Jul. 27, 2021>
- (4) Necessary matters, such as the type and standards of hydrogen filling stations to be installed under paragraph (3), shall be prescribed by Presidential Decree. <Newly Inserted on Jul. 27, 2021>
- (5) The size of exclusive parking areas and the type, number, etc. of charging facilities to be installed pursuant to paragraphs (1) and (2)

shall be prescribed by Presidential Decree taking into account the size, use, etc. of the relevant facilities. <Amended on Jul. 27, 2021>

- (6) The State and local governments may devise necessary measures, such as financial and technical assistance, in order to reduce the private sector’s burden of installing exclusive parking areas and charging facilities and to facilitate the installation thereof. <Amended on Jul. 27, 2021>
- (7) No motor vehicle other than any of the following may be parked within a charging area at a charging facility for environment-friendly motor vehicles under paragraph (1): <Newly Inserted on Mar. 20, 2018; Jul. 27, 2021>
1. Electric vehicles;
 2. Hybrid vehicles capable of running on electric energy charged using an external power source.
- (8) No motor vehicle other than any of the following may be parked within a charging area at a charging facility for environment-friendly motor vehicles: <Newly Inserted on Jul. 27, 2021>
1. Electric vehicles;
 2. Hybrid vehicles;
 3. Hydrogen electric vehicles.
- (9) No person may engage in activities that interfere with charging, such as stacking objects within, or obstructing access to, charging facilities or other areas used to charge environment-friendly motor vehicles. In such cases, the standards for activities that interfere with charging shall be prescribed by Presidential Decree. <Newly Inserted on Mar. 20, 2018; Jul. 27, 2021>
- (10) The head of a Si/Gun/Gu may have public officials under his or her jurisdiction, such as those who engage in duties related to traffic, environment, or energy, crack down on vehicles parked within charging areas at charging facilities or exclusive parking areas for environment-friendly motor vehicles in violation of paragraph (7) or (8). <Newly Inserted on Mar. 20, 2018; Jul. 27, 2021>
- (11) The State, local governments, public enterprises, local public enterprises, and the heads of other institutions prescribed by Presidential Decree shall open to the public charging facilities for environment-friendly motor vehicles established and operated by relevant institutions, to the extent that does not impede the performance of their duties or security, etc., and shall disclose information, such as the location, available hours, the terms and conditions for access to the charging facilities for environment-friendly motor vehicles open to the public. <Newly Inserted on Jul. 27, 2021>
- (12) Matters necessary for the scope, methods, etc. of charging facilities for environment-friendly motor vehicles open to the public and for the disclosure of information thereon under Article 11 shall be prescribed by Presidential Decree. <Newly Inserted on Jul. 27, 2021>

Article 11-3 (Lease of State-Owned or Co-Owned Property)

- (1) Notwithstanding the State Property Act or the Public Property and

Commodity Management Act, the State or a local government may use a negotiated contract to grant a lease or permission for use (hereinafter referred to as “lease”) to a person who is engaged in the distribution and spread of charging facilities for environment-friendly vehicles, if deemed necessary for purposes of distributing and spreading such facilities.

- (2) Where the State or a local government leases State or public property to a person pursuant to paragraph (1), it may permit the person to construct permanent facilities on condition of voluntary removal or deposit of removal costs, notwithstanding the provisions of the State Property Act or the Public Property and Commodity Management Act: Provided, That the construction of permanent facilities within public property requires the consent of the relevant local council, and that the procedures for obtaining consent of the local council may be prescribed by ordinance of the relevant local government. <Amended on Jul. 27, 2021>
- (3) A lease of state-owned or co-owned property under paragraph (1) shall be for a term not exceeding 10 years; and a lease of state-owned property may be renewed for a period not exceeding the previous lease term, and a lease of co-owned property may be renewed for a period not longer than 10 years only once, if deemed necessary by the head of a local government.
- (4) Where the State leases state-owned property under paragraph (1), it may reduce the rent by up to 80/100, as prescribed by Presidential Decree, notwithstanding the State Property Act. <Amended on Jul 27, 2021>
- (5) Where a local government leases co-owned property under paragraph (1), it may reduce the rent by up to 80/100, as prescribed by ordinance of the local government, notwithstanding the Public Property and Commodity Management Act. <Amended on Jul. 27, 2021>

Article 11-4 (Corrective Orders)

- (1) The head of the competent Si/Gun/Gu may order a person who fails to install, or to meet the installation standards for charging facilities and exclusive parking areas for environment-friendly motor vehicles in violation of Article 11-2 (1) and (2), to take corrective measures within a specified period, as prescribed by Presidential Decree.
- (2) The Minister of Trade, Industry and Energy may request the head of a Si/Gun/Gu to take corrective measures, such as installing, managing, repairing, or improving charging facilities and exclusive parking areas for environment-friendly motor vehicles in the relevant facilities under the subparagraphs of Article 11-2 (1), and the head of a Si/Gun shall comply with such request unless there is good reason.

Article 11-5 (Charges for Compelling Compliance)

- (1) The head of a Si/Gun/Gu shall impose a charge for compelling compliance not exceeding 30 million won on a person who fails to comply with a corrective order within a period after receiving such order under Article 11-4 (1), taking into account, among other things,

costs incurred in installing charging facilities and exclusive parking areas for environment-friendly motor vehicles .

- (2) The typed of violations subject to the imposition of charges for compelling compliance under paragraph (1), the amount of said charges by gravity of violation, and other necessary matters shall be prescribed by Presidential Decree.
- (3) The head of a Si/Gun/Gu shall give prior written notification of a planned imposition and collection of a charge for compelling compliance under paragraph (1) before imposing said charge under paragraph (1).
- (4) When imposing a charge for compelling compliance under paragraph (1), the head of a Si/Gun/Gu shall do so, specifically stating in writing, the amount of the charge, grounds for imposition, payment deadline, receiving institutions, the methods and period for filing objections, etc.
- (5) The head of a Si/Gun/Gu may impose and collect a charge for compelling compliance under paragraph (1), repeatedly until a corrective order is complied with, once a year from the date the first corrective order is issued.
- (6) Where a person to whom a corrective order has been issued pursuant to Article 11-4 (1) complies with such order, the head of a Si/Gun/Gu shall immediately cease to impose a new charge for compelling compliance, but shall collect the charge for compelling compliance already imposed.
- (7) If a person upon whom a charge for compelling compliance was imposed pursuant to paragraph (4) fails to pay said charge by the payment deadline, the head of a relevant Si/Gun/Gu shall collect such amount in accordance with the Act on the Collection of Local Administrative Penalty Charges.

Article 12 (Publicity of Environment-Friendly Motor Vehicles)

The State or local governments may request organizations, etc. relating to motor vehicles to perform publicity activities necessary for expanding the distribution of environment-friendly motor vehicles.

Article 13 (Funding Resources)

Funds necessary to provide support prescribed in Articles 6 through 8, 8-2, 10, 11 (2), and 11-2 (6) may be provided from the following financial resources: <Amended on Jul. 21, 2011; Jan. 1, 2014; Jan. 27, 2016; Dec. 31, 2018; Jul. 27, 2021>

1. Special Accounts for Energy and Resources-Related Projects under the Act on the Special Accounts for Energy and Resources-Related Projects;
2. The Fund for the Establishment and Promotion of Small and Medium Enterprises and Startups prescribed in Article 63 of the Small and Medium Enterprises Promotion Act;
3. Special Accounts for Environmental Improvement under the Framework Act on Environmental Policy;

Article 14 (Requests for Provision of Data)

- (1) Where deemed necessary to establish a master plan and an implementation plan for development, the Minister of Trade, Industry and Energy may request a relevant administrative agency and an agency or organization related to environment-friendly motor vehicles to provide necessary data or to present its opinions, etc. In such cases, upon receipt of such request, a relevant administrative agency and an agency or organization related to environment-friendly motor vehicles shall comply with such request, except in extenuating circumstances. <Amended on Mar. 23, 2013>
- (2) Where deemed necessary to establish an implementation plan for distribution, the Minister of Environment may request Mayors/Do Governors to provide data on the outcomes, etc. of promotion of distribution of environment-friendly motor vehicles. In such cases, the Mayors/Do Governors shall comply with such request, except in extenuating circumstances.

Article 15 (Entrustment of Duties)

- The State or local governments may entrust the following administrative affairs to a relevant specialized agency: <Amended on Mar. 20, 2018; Jul. 27, 2021>
1. Administrative affairs, such as assessment and management of projects necessary for promoting the projects prescribed in Articles 6 and 7;
 2. Administrative affairs necessary for support prescribed in Articles 8, 8-2, 10, and 11 (2);
 3. Some of other administrative affairs prescribed by this Act, as prescribed by Presidential Decree.

Article 16 (Administrative Fines)

- (1) Any person who engages in activities that interfere with charging, in violation of Article 11-2 (9) shall be subject to an administrative fine not exceeding one million won. <Amended on Jul. 27, 2021>
- (2) Any person who parks his or her vehicle in a charging area or an exclusive parking area at a charging facility for environment-friendly motor vehicles, in violation of Article 11-2 (7) or (8) shall be subject to an administrative fine not exceeding 200,000 won. <Amended on Jul. 27, 2021>"
- (3) Administrative fines under paragraphs (1) and (2) shall be imposed and collected by the head of the competent Si/Gun/Gu; and the types of violations subject to administrative fines, the amounts of such fines depending upon the severity of violations, and the like shall be prescribed by Presidential Decree. <Amended on Jul. 27, 2021>
- <Provided by Ministry of Government Legislation>

From Korea to the World

Associate Legal Officer Kim Hayoung of International Organization for Migration

Kim Hayoung

An Associate Legal Officer of the IOM

Established in 1951, IOM is the leading intergovernmental organization in the field of migration and works closely with governmental, intergovernmental and non-governmental partners. IOM is dedicated to promoting humane and orderly migration for the benefit of all. It does so by providing services and advice to governments and migrants. IOM works to help ensure the orderly and humane management of migration to promote international cooperation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, including refugees and internally displaced people.

Q: From our knowledge, your work experience focused on legal due diligence when working at a law firm. Could you explain in detail about legal due diligence?

Due diligence can be defined as a review that is performed prior to an investment in order to investigate the risks of entering into a transaction with a target company. This practice roughly comprises the following two types: financial due diligence and legal due diligence. My job at Shin & Partners Law Office was related to the latter. In legal due diligence, the party conducting the review examines the legal issues of a proposed investment. It performs a comprehensive review of the target company, covering the following areas: general aspects of the firm (articles of incorporation, shareholder register, etc.), business-related licenses and regulations, contracts, human resources, real estate, intellectual property, insurance, and litigations and disputes. Legal due diligence functions as the foundation of any given investment since risk factors identified through this process affect the investment conditions and are then reflected in the investment contract. An entity conducting the due diligence will write a due diligence report after completing its examination. My job in this process was to review the company's various data and examine whether there were any risks from a legal point of view, after which I worked on ways to minimize those risks.



Q: You have also participated in the drafting work of the United Nations Commission on International Trade Law (UNCITRAL) Convention on the Judicial Sale of Ships. Could you explain more about the Convention and its significance?

In 2019, the UNCITRAL 6th Working Group drafted international norms and standards for the sale of ships, building on the "Beijing Draft" proposed at Comité Maritime International in 2012. This is an international legal standard in which the country selling the ship confers clean title on the purchaser, and the parties afterward certify the sale. The term "clean title" means title free and clear of any mortgage or hypothèque and of any charge that may be imposed by a State. The Working Group has agreed to draft a convention rather than just a model law. Thus, the adoption of the Convention will aid in guaranteeing the international validity of overseas ship sales and ultimately securing the collateral value of ships. The purpose of the Convention is not to reconcile clearly conflicting interests between countries but rather to reflect the various legislative practices of each country and draft legislation that can uniformly recognize the validity of ship sales. My job in this process was to review the possibility of conflict between the Convention and Korean law, primarily commercial and civil execution law. I also organized Korea's legal position on the Convention so that a sale procedure harmonious with Korean law could be devised.

Q: According to research, one out of every seven people worldwide is a migrant. In such international circumstances, what is the role and significance of the International Organization for Migration (IOM)? Moreover, how are the United Nations (UN) and IOM connected, and in what aspects do they cooperate?

IOM is an intergovernmental organization that aims to support orderly and stable migration management. The beneficiaries of IOM include migrant workers, refugees, and internally displaced persons (IDP), for whom the organization provides various humanitarian support. While the beneficiaries of the United Nations High Commissioner for Refugees (UNHCR) primarily focus on refugees, IOM works to ensure a broader range of beneficiaries. In this light, IOM's activities encompass diverse activities, such as migration and integration support, crisis response (disasters or conflicts), counter-trafficking, and the protection of victims. As migration due to climate change and environmental factors has become a significant issue, I believe that IOM's scope of work will widen even more, and its role will increasingly gain more importance. In addition, IOM is a related organization of the UN through the Agreement Concerning the Relationship between the International Organization for Migration and the United Nations, signed in September 2016. Approved by the IOM Council and the UN General Assembly, the Agreement seeks for IOM to cooperate closely with the UN and various organizations within the UN system.

Q: While working at IOM, is there anything new you have learned? Would there be anything you would like to share with the public?

Working in a new environment and workplace, I have learned much from work. Nonetheless, since most of what I have learned relates to expertise or technical knowledge, I do not think it is what the public would be particularly interested in. When I started working at IOM and adjusted to the new environment, I met various colleagues from various national, cultural, and language backgrounds. At first, I noticed the differences between my colleagues and me. However, as time passed, I recognized our similarities and realized that our way of communication was not much different.

Q: You have widened your field of interest from corporate law to international law and then to human rights and immigration law. What awakened your interest in each field, and how did you become confident in making a career change? Could you share with us any plans you have for your future career?

Moving from a law firm to the Ministry of Justice (MOJ) and again to IOM, I do not think I have made each change with perfect confidence.



Since my school days, I have always dreamed of working at an international organization, which continued as I studied law and started my career. While working at a law firm, I thought work experience at a government agency would be essential to work at an international organization. As I prepared to work at a government agency and checked various job openings, I was able to devise a more detailed plan for my future career. Working at the International Legal Affairs Division of the MOJ, I became more interested in international law. Although the work at the MOJ is not directly related to my current position, the necessary qualities and abilities for the work have many similarities. Currently, I look forward to continuing my work in the current department after my two-year contract. At the same time, I also hope to work in a project-based office other than the headquarters, which would be a helpful experience when I continue to work at an international organization. In fact, rather than setting up long-term plans, I tend to seize opportunities according to my situation; thus, I do not have a clear future plan yet.

Q: *You have gained work experience at various institutions, including a law firm, the MOJ, and an international organization. How have these experiences helped you to work in the field of international law?*

Currently, I work at the Institutional Law and Program Support Division within the Department of Legal Affairs, which provides general legal advice on various institutional law issues of Country and Field Offices. Among them, I am primarily in charge of tasks related to privileges

and immunities. Although I have no previous work experience directly related to this field at an international organization, my experiences working at a law firm and the MOJ have been very helpful when communicating with various field offices, analyzing their legal problems, and preparing legal advice. Practicing legal work at a law firm—from examining facts, to finding the issue of law, to providing legal advice—has been an excellent enriching opportunity to grow essential skills and qualities as a lawyer. Later at the MOJ, I learned the logistics of preparing reports and developed planning and managing capability, especially in mediating opinions and communicating them effectively. The work experiences I accumulated at the two institutions have been very conducive to leading professional work, suggesting a new direction for an organization, and working with colleagues.

Q: *What do you consider the most important aspect of working at IOM? What was the most difficult or demanding work, and how did you overcome it?*

Of course, the most critical aspect of conducting work at IOM is delivering practical and helpful legal advice in a timely manner. In the case of IOM, the reality and the environment facing field offices are frequently aloof from those of the headquarters; thus, it is essential to provide pragmatic legal advice based on an understanding of such a situation. I do not recall a project that was particularly demanding. Still, since IOM consists of diverse divisions and projects, it was hard to give realistic legal advice without understanding the details of each project



or its circumstances. So aside from the legal aspects, I think it was sometimes difficult to fully comprehend the various programs and businesses and the scope of work of the relevant divisions. I believe the way to overcome that challenge is to ask questions right away to clear things up and learn actively over time rather than shying away.

Recent Events of the Ministry of Justice

The Ministry of Justice Holds the 15th Anniversary of 'Together Day.'



On May 20, the Ministry of Justice held the 15th anniversary of 'Together Day' in the main hall at Gwacheon Government Complex.

'Together Day' was designated as a legal anniversary* in 2007 to create a society where Koreans and foreigners in Korea respect each other's culture and traditions and live in harmony. The event has been held every May 20 since 2008.

* Article 19 of the Framework Act on Treatment of Foreigners Residing in the Republic of Korea

More than 200 participants attended this event, including Wolfgang Angerholzer, the Austrian ambassador, and representatives from international organizations such as the United Nations Economic and Social Commission for Asia and the Pacific East and North-East Asia Office (UNESCAP-ENE), International Organization for Migration (IOM), and the United Nations High Commissioner for Refugees (UNHCR).

The anniversary was held in the order of screening the theme video, a commemorative speech by the Minister of Justice, a congratulatory speech by diplomatic envoys to Korea, an awards ceremony, a presentation of settlement cases in Korea, and celebratory performances. Minister of Justice Han Dong Hoon stated in the commemorative speech, "Our Ministry is in charge of immigration policy. As a global leader, we will establish advanced immigration laws and systems to attract talented people who can drive our society and the local economy. We will implement immigration policies so that foreign talents can reach their potential in their field." The Minister also said, "Korea is no longer a country in the world. Instead, the world is in our country. We should understand and respect our neighbors to realize a beautiful and harmonious Korea that acknowledges common values."



At the awards ceremony, 14 government awards, including the Presidential Citation, were awarded.

At the anniversary ceremony, participants had a good time mingling with one another as members of the global community, with 'Utdari Samulnori' by Xpats, a multinational Samulnori group consisting of talented volunteers, Pansori by Professor Anna Yates-Lu of Seoul University's Department of Korean Music, and congratulatory performances by Suwon University's international students and Immigrant Network Choir.

The Ministry of Justice broadcasted the ceremony live on YouTube channels (Ministry of Justice TV and Korea Immigration) and the Together Day website for the public and foreign residents in Korea who were unable to attend the ceremony so that everyone could participate.

Meanwhile, during 'Together Week' (May 20 ~ May 26), regional immigration and foreign offices across the country (11 countries) will separately cooperate with local governments and related organizations to hold various commemorative events tailored to regional characteristics.

Arbitral Award Rendered in Lone Star Funds v. The Republic of Korea ISDS Case

- On August 31, 2022, the arbitral award was rendered in the ISDS (Investor-State Dispute Settlement) case filed by U.S. private equity firm Lone Star Funds against the Korean government in 2012.
- It has been ten years since the arbitration proceedings started in 2012 and 6 years and three months since the final hearing ended on June 6, 2016.
- Out of the many issues raised in the hearings, the Arbitral Tribunal accepted Lone Star's arguments on several finance issues. It ordered the Korean government to compensate the firm with 216.5

million dollars (approximately 280 billion won, calculated at 1,300 won per 1 dollar). Korea was also ordered to pay accumulated interest at the average one-month U.S. Treasury rate, from December 3, 2011, to the period the payment is completed.

- On the other hand, the Tribunal rejected Lone Star's claims on all taxation issues and the remaining finance issues. It confirmed that either the Tribunal had no jurisdiction or there was no violation of international law, as the Korean government argued.
- Arbitrators only accepted about 216.5 million dollars (280 billion won) of the 4.68 billion dollars (6.1 trillion won) Lone Star had claimed. At the same time, the Korean government won the case regarding the remaining 4.46 billion dollars (5.8 trillion won), or 95.4 percent of the claimed money.
- In other words, this is a 95.4 percent win for the Korean government and a 4.6% loss compared to Lone Star's demand.
- The following is the detailed judgment on each issue from the Tribunal.
- Regarding jurisdiction issues, the Tribunal, accepting the Korean government's argument, found it had no jurisdiction over government action before the Korea-BLEU (Belgium-Luxembourg Economic Union) Bilateral Investment Treaty came into force on March 27, 2011.
- Accordingly, all HSBC-related claims and some taxation claims raised by Lone Star were excluded from the scope of the judgment.
- Regarding the financial issues, the Tribunal found that delaying approval until KEB's sale price fell between Lone Star and Hana Bank violated the fair treatment obligation under the above agreement.
- Lone Star's claims were fully rejected regarding the remaining taxation issues over which the Tribunal did have jurisdiction. The Tribunal found the Korean government's taxation did not result in arbitrary or discriminatory treatment under the above agreement.
- Meanwhile, the minority opinion of the Tribunal held that Lone Star, not the Korean government, was responsible for the delayed approval of the financial authorities. The minority opinion pointed out the delay occurred because Lone Star was convicted of manipulating the stock price of KEB.
- The Korean government stated, "We find it difficult to accept the majority opinion of the Tribunal, as we have treated Lone Star fairly under international laws and treaties. We will apply for cancellation and suspension of execution and keep the public updated on the specific developments."
- Under Article 52 (1) of the ICSID Convention, either party may request annulment of the award to the ICSID Secretary-General within 120 days after the ruling on the following grounds: that the Tribunal has manifestly exceeded its powers; that the award has failed to state the reasons on which it is based; or that there has been a serious departure from a fundamental rule of procedure. When an application for annulment is accepted, an ad hoc

annulment committee will review the request.

- The government added, "We will disclose as much information as possible within the bounds of relevant laws and the Tribunal's procedural orders. By disclosing information such as the written award, we hope to enhance the transparency of this arbitration process and guarantee the people's right to know."

Claims and judgments regarding each issue

1. Jurisdiction Issues

Jurisdiction Ratione Temporis

A. The Korean government's claims

- All or most of Lone Star Funds' claims on finance and taxation are about disputes and actions before the 2011 Korea-BLEU BIT (Bilateral Investment Treaty) came into force. Under the principle of non-retroactivity, the treaty shall not apply to these disputes and actions.

B. Lone Star's claims

- The 2011 Korea-BLEU BIT retroactively applies to actions administered before it entered into force. Even regardless of retroactivity, the Korean government's acts can be considered continuous and composite illegal acts that persisted after the agreement came into force. Thus, the treaty applies to these acts.

C. Gist of the Tribunal's judgment

- The Tribunal has no jurisdiction over the breach of the 1976 Korea-BLEU BIT. (Dismissal of Lone Star's claim)
- The Tribunal has no jurisdiction over acts committed before the 2011 Korea-BLEU BIT entered into force on March 27, 2011. (Dismissal of Lone Star's claim)

Standing to Sue

A. Government's claims

- Other than LSF-KEB, the remaining seven claimants comprising Lone Star Funds did not suffer damages as they were not subject to taxation. As Lone Star's claim is on behalf of the American or Bermudian parent corporation, it does not have the standing to sue.

B. Lone Star's Claims

- Proof of damage is unnecessary to hold the respondent accountable for the breach of the 2011 Korea-BLEU BIT and international law. The claimants have the right to dispute the taxation of the parent corporation.

C. Gist of the Tribunal's judgment

- The claimants have the standing to sue for taxation issues as they are the legal owners of the taxable investment assets.

2. Financial Issues

A. Lone Star's claims

- Regarding HSBC: In selling a controlling stake of Korea Exchange Bank (KEB) to HSBC during 2007-08, Korea's financial regulatory authorities should have approved the sale within the period stated in Korean law. However, the authorities deliberately delayed approval, resulting in the acquisition deal falling through.
- Regarding Hana Financial Group: In selling KEB to Hana Financial Group, Korean authorities deliberately delayed approval of the acquisition. In addition, the authorities colluded with and pressured Hana Financial Group to cut the sale price of KEB.

B. Government's claims

- The acquisition approval period in Korean law is simply advisory, not compulsory. The delay in approval is justifiable as Lone Star faced criminal trials that could influence its eligibility as a major shareholder of KEB. Depending on the trial results, Lone Star could have faced compulsory disposal of shares.
- The government did not intervene in lowering the sale price of the KEB stake. Instead, the sale price cut resulted from Hana Financial Group and Lone Star's renegotiation, which reflected a drop in KEB stock prices after Lone Star was criminally convicted.

C. Gist of the Tribunal's judgment

- HSBC-related actions occurred before the 2011 Korea-BLEU BIT came into force on March 27, 2011. Thus, the Tribunal has no jurisdiction over them. (Dismissal of Lone Star's claim)
 - Regarding Hana Financial Group, the Financial Services Commission's delay in approval was not within its authority, which constitutes a violation of its obligation to provide fair treatment.
 - However, Lone Star is liable for 50 percent of the claim under comparative negligence, as it is accountable for being convicted of the crime of KEB Card stock manipulation.
- Accordingly, the Tribunal accepts 2.165 million dollars of Lone Star's claim, half the acquisition price of 4.33 million dollars. (Partial approval of Lone Star's claim)

3. Taxation Issues

A. Lone Star's claims

- Under the Convention between the Republic of Korea and the Kingdom of Belgium for the Avoidance of Double Taxation and Prevention, Belgian corporations receive partial tax exemption benefits for domestic transactions. Nonetheless, the Korean government unfairly refused to grant tax exemption benefits to Lone Star.

- In the taxation process of Lone Star's transfer and dividend income, the government applied inconsistent and arbitrary standards in determining whether Lone Star has a fixed place of business in Korea and is the real income beneficiary to impose maximum taxes on Lone Star.

B. Government's claims

- Lone Star's Belgian corporations are "conduit companies" established for tax evasion. Therefore, based on the principle of actual taxation under Korean and International Tax Law, not granting tax exemption benefits is a lawful decision.
- The tax levied on Lone Star was lawful and fair, reviewing factual grounds. According to the said tax convention, the burden of proof regarding the right to receive tax exemption benefits falls on the taxpayer. Also, under domestic law, the taxation authority is not obligated to identify who the real beneficiary is.
- The cost of damages Lone Star claimed in domestic courts, and the tax disposition filed to the ISDS are identical. Hence, double compensation is unacceptable, and the ISDS does not need to deal with the tax return case after the annulment taxation ruling.

C. Gist of the Tribunal's judgment

- Some taxation dispositions were made before the 2011 Korea-BLEU BIT took effect, so the Tribunal's jurisdiction is not recognized. (Dismissal of Lone Star's Claim)
- The Korean government's application of the principle of substance over form meets international standards. Thus, the government's decision was neither inconsistent nor discriminatory and did not violate the obligations stated in the 2011 Korea-BLEU BIT. (Dismissal of Lone Star's Claim)

4. Issues of Amount of Damages

A. Amount of damages claimed by Lone Star

- ①A total of USD 4.68 billion (approximately KRW 6.1 trillion)
- ②interest, compounded annually at the average one-month U.S. Treasury rate, from September 30, 2013, to the date of payment
- ③Other legal and arbitration costs
- To fully compensate for damages, the firm also claimed USD 2.19 billion, taxes that Korea and Belgium may impose on the award in the future.(Tax gross-up)

B. Government's claims

- ①The severity of damages should be calculated based on the market price at the time, not the actual contract amount.
- ②The causal relationship between the delay in acquisition approval and Lone Star's damages is thin.
- ③Lone Star is responsible for the damages caused by the HSBC sale breakdown.
- The government cannot accept the tax gross-up, as the imposition and the tax cost are unclear.

C. Gist of the Tribunal's judgment

- There is no basis for considering future taxes in judging the cost of damages. (Dismissal of Lone Star's claim)

Policies of the Ministry of Justice

The Ministry of Justice Attracts Foreign Tourists

Visitors from Japan, Taiwan, and Macau Are Issued Multiple-Entry Visas and E-visa for Groups of 5+



The Ministry of Justice plans to actively improve the visa issuance system to attract more tourists from countries where reciprocal visa-free entry was temporarily suspended, such as Japan, Taiwan, and Macau. This plan begins on July 1 of this year, after discussing with the Ministry of Foreign Affairs and the Ministry of Culture, Sports, and Tourism.

This measure reflects the voices of the tourist industry. As the issuance of short-term visit(C-3) visas* resumed on June 1, the demand for visiting Korea has drastically increased, leading to the delay in visa issuance. The travel industry complained that such a delay hinders attracting tourists. The main points of the measures are as follows.

* Issued to those who intend to visit for not more than 90 days for commercial activities such as market research and counseling, tourism, medical care, visits to relatives, and participation in meetings.

• Issuing multiple entry visas (C-3) and simplifying required documents

- Currently, when citizens of the countries mentioned above visit Korea for tourism, single-entry visas are issued, which can be used only once within 90 days. But the Ministry allows the issuance of multiple-entry

visas (C-3, valid for one year) if visitors want to. In addition, the process will be simplified, requiring only the application form, one's passport, and a return airline ticket.

• Implementation of *E-Visa program for group tourists

* A system in which the Ministry of Justice (Electronic Visa Center) issues visas online for group tourists of five or more.

- Citizens of the countries mentioned above need to receive individual visas from local Korean diplomatic offices. However, for the travelers' convenience, a group of five or more recruited by local travel agencies may be issued visas online without visiting diplomatic offices.

- The program will be implemented as soon as the data system is ready and local travel agencies are designated.

These measures are temporarily implemented until the resumption of reciprocal visa-free entries. Also, they may change depending on the future quarantine situation in Korea.

The Ministry of Justice expects these measures to address the inconvenience of foreign visitors, help boost domestic demand and create jobs by revitalizing the tourism industry. The Ministry of Justice plans to work closely with the Ministry of Foreign Affairs and other related ministries.

Ministry of Justice Strengthens Business Competitiveness by Issuing Intern Visas in High-Tech Fields

Internships at Domestic Businesses for Undergraduates from Overseas Universities



The Ministry of Justice will issue intern visas for foreigners in high-tech fields* from August 8, 2022. They are designed to strengthen business competitiveness by preemptively securing talented individuals.

*High-tech fields: Cutting-edge technologies defined in Article 5 of the Industrial Development Act, including semiconductors, IT, technology management, nano, digital electronics, bio, transport and machinery, new materials, environment, energy, etc.

With Korea's global status growing, more and more international students are looking for internship programs in Korea before their graduation. And domestic IT companies are trying to give opportunities to such students as well. But thus far, it has been difficult to foster talented human resources due to the absence of a visa system.

• Previously, foreigners who obtained degrees were allowed to work as an intern in Korea, and international students at Korean universities were allowed to participate in academic-related internships. Yet undergraduates from overseas were not permitted to attend domestic internship programs.

Meanwhile, the issuance of intern visas in high-tech fields has been selected as a task to boost business vitality by the Economic Regulatory Innovation TF and reviewed by the Economic Regulatory Review Organization* composed of experts in the private sector.

* Designate private experts from businesses, academia, and legal fields as members of the committee for each task Determines the appropriateness of regulatory improvements

Also, the Working-Level Subcommittee to Strengthen Professional Human Resources* discussed the need to issue visas for talented undergraduates majoring in high-tech fields that experience a shortage of workforce** so they can join internship programs in Korea. (September 2021)

* Working-Level Subcommittee to Strengthen Professional Human Resources (Chairperson: Director of the Future Human Resources Policy Bureau of the Ministry of Science and ICT) is the affiliated subcommittee of the Foreign Policy Working-Level Committee (Chairperson: Vice Minister of Justice). It coordinates and consults among ministries relevant to attracting overseas professionals.

** It is estimated that 28,050 people are needed in the 12 major industries (semiconductor, bio/health, IT business, etc.) as of the year 2020.

The new visa category is aimed to enhance the talent pool by allowing them to work at Korean companies and experience life in Korea. In addition, the Ministry expects those who learn Korean technologies and cultures to play a bridging role when Korean companies enter the market overseas.



- Also, when foreigners with this visa want to study or start their businesses in Korea, they will get preferential treatment for visa applications to contribute to attracting international students and talented workers for SMEs or startups.

However, businesses shall hire foreign interns in high-tech fields only within 20% of the domestic workforce to protect jobs for younger people in Korea.

- SMEs and startups* will be exempted from employment regulations for three years since their establishment to support their growth.

*Venture businesses according to the Act on Special Measures for the Promotion of Venture Businesses

The Ministry of Justice will spare no effort to seek ways to solve the shortage of workers in new growth industries and come up with visa policies that support national growth.

1. Overview

- Foreign undergraduates are allowed to intern at domestic businesses in tech fields to secure talented personnel.

2. Subject

- Businesses or institutions in tech fields that meet the following criteria

A. Private Businesses

- ①Domestic listed companies with high-tech research facilities,
- ②Companies equipped with research institutes departments responsible for research and development(R&D) under the Basic Research Promotion and Technology Development Support Act
- ③Companies designated as high-tech companies according to the Special Act on Promotion of Special Research and Development Zones
- Venture businesses under the Act on Special Measures for the Promotion of Venture Businesses

B. National or Public Research Institute Specific research institutes, Government-funded research institutes in science and high technology*

*The scope of high technology: technologies related to semiconductors, IT, technology management, nano, digital electronics, bio, transport and machinery, new materials, environment, energy, etc. (Article 5 of the Industrial Development Act)

-Employment Protection: Each organization shall hire foreign interns in high-tech fields only within 20% of the domestic workforce (suspending the application of restrictions for venture businesses established within three years)

- Foreign undergraduates majoring in advanced technologies at foreign colleges* or recent graduates (within three years)

*Top 200 colleges selected by Time magazine and top 500 universities in the QS world ranking

3. Supports for Interns in High-Tech Fields

- Support for stay

Extending the period of stay for job seeker visa holders from six months to one year that can be granted once and allowing interns to receive a salary (minimum wage or higher)

- Support for studying abroad, employment, and starting a business

Simplifying required documents for those who wish to study at domestic universities* and giving preferential treatment when changing visa status**

*Exemption from required documents submission, such as graduation certificate and proof of financial capacity, when changing visa status to D-2 Student Visa (examined only with Certificate of Admission)

**1) If a person is hired after internship programs, and his or her income is higher than gross national income (GNI) per capita, he/she will be exempted from E-7 visa requirements, including academic ability and work experience 2) Additional 15 points for D-8-4 Technology and Business Startup Visa (D-8-4 Visa is granted if the total score is 80 or higher)

An Important Ruling on Korean Child Custody of a Multicultural Family upon Divorce



Summary

The plaintiff (a Korean man) and the defendant (a Vietnamese woman) filed for a divorce and petitioned to be appointed as the custodial parent of their minor child on September 30, 2021. The Supreme Court (Justice Min Yu-sook) vacated the original judgment that appointed the plaintiff as a custodial parent on the grounds that there should be legitimate reasons for the appointment of a custodian, which might cause changes in raising children. Also, the court must not rely on the abstract and obscure determination that a foreign spouse with less fluent Korean skills is not appropriate for raising a child when deciding whom to appoint as a custodial parent. [Supreme Court Decision 2021Meu12320, 12337 Decided September 30, 2021]

Facts

• The plaintiff (a Korean man) was married to the defendant (a Vietnamese woman) and raised two children. Following continued conflicts, the defendant left home with her elder daughter and lived

apart. After about a year of separation, both parties filed for a divorce.

- The defendant had given birth to two children since she started to live in Korea, so she did not have sufficient time to develop her Korean skills. After the separation, she found a job and earned about two million won monthly. With her mother's assistance, she has been raising her daughter (3~4 year old at the time of the divorce) without any trouble
- On the other hand, the plaintiff, who claimed to appoint himself as the custodian of their elder daughter, owns his apartment but is unemployed and living on loan.
- The District Court of Jeonju quoted both parties' requests for divorce, dismissed the defendant's petition for alimony, and found that the plaintiff should have parental rights and custody. The defendant appealed to the Jeonju Court of Appeals. However, the court dismissed her claim, holding that the defendant lacked the basic Korean communication skills necessary to foster the children. And it seemed that the defendant's job and housing were not stable enough to raise her child. The defendant's mother, a primary caregiver of the child on behalf of the defendant leaving for work, cannot speak Korean, so the children may have difficulty learning Korean and

adjusting to kindergarten and schools in the future. Against that ruling, the defendant brought the suit to the Supreme Court.

The Supreme Court's Decision

A. Issues

- Matters to be considered by the court when making decisions on who gets custody of a minor child after divorce according to Article 837(4) of the Civil Act
 - In a case where one of the parents has been peacefully raising a minor child for a considerable period of time since separation and in the process leading up to a divorce trial, the requirements that justify the change in the status quo and appoint the other parent as a person with parental authority over and custody of the child, and matters to be considered by the court in such a case
- In a case where a foreigner who immigrated to South Korea after having married a citizen of the Republic of Korea and resided therein until they reached divorce while still being not proficient in the Korean language, whether it is viable to conclude that the foreigner is unsuitable as a custodial parent of the minor child due to the lack of Korean skills.

B. Ruling

- The Supreme Court remanded the case to the lower courts regarding appointment of a person with parental authority and custody of the elder daughter.

C. Summary of Decision

- Principles of the Appointment of a Custodial Parent
 - When the court decides on whom to appoint as a custodial parent of a minor child under Article 837(4) of the Civil Act, it must make such a decision in a way that is most beneficial and appropriate for the growth and welfare of the minor child by comprehensively taking into account: (a) the gender and age of a minor child; (b) the parent's love for and intention of raising the child; (c) financial capability of each parent to raise the child, the parenting method a father and mother intend to employ; (d) the reasonableness and appropriateness of such parenting methods and whether each parent can cope with their parenting differences; (e) the intimacy between each parent and their minor child; and (f) the intention of a minor child.
- In a case where one of the parents has been peacefully raising a minor child, especially a toddler or preschool child, for a considerable period of time since separation and in the period leading up to a divorce trial, for the court to justifiably change the current way of raising children and appoint the other parent as a person with parental authority over and custody of the child, it needs to prove that the current parenting method is not helpful for sound growth and welfare of the minor child and rather works against the interest of the child. Also, the court must clarify that appointment of the other party

as a person with parental authority over and custody of the child is more advantageous for the minor child's sound growth and welfare than adhering to the status quo.

- In a case where a noncustodial parent files a claim for the appointment of himself or herself as a custodian, the court must carefully examine whether the handover of the child can be carried out after the change of a custodian; whether there is a likelihood that a noncustodial parent enjoys economic advantages or a custodial parent incurs financial loss due to the appointment of the noncustodial parent as a custodian despite the low probability of the enforcement of the order.
- Implication of Foreign Spouse's Korean Proficiency Levels In Determining Parenting Suitability
 - When a party litigant is a foreigner who married a citizen of the Republic of Korea, acquired a status of sojourn, and resided in Korea but ended up in divorce while still being not proficient in the Korean language, it is inappropriate for the court to find that a foreign spouse is unsuitable as a custodian based on the abstract or mistaken assumption that a Korean spouse would be better to raise the kid than his or her counterpart not proficient in Korean.
- The Republic of Korea provides public education and an environment conducive to education, whereby a minor child is sufficiently guaranteed the opportunity to acquire and practice the Korean language. Hence, it is difficult to consider that a foreign parent's proficiency in communication skills in the Korean language has importance in the sound growth and welfare of the minor child. Rather, the Family Court needs to be careful in considering the proficiency of the Korean language in the appointment of a custodian since the consideration of language proficiency may result in discrimination against nationality or ethnicity. And the court must also remember that considering that a child's understanding of the mother language and native culture of his or her foreign parent serves an important role in forming a child's sense of self-esteem. The Act on the Protection and Promotion of Cultural Diversity stipulates that all the members of the society shall have the freedom of and right to cultural experiences and endeavor to respect and understand the diverse cultural expressions of other members of the society (Article 4).
 - Furthermore, the court is prohibited from overlooking the circumstance that a foreign spouse had the lack of time to learn and practice Korean after having married a person of different nationality and having given birth to a child and only focusing on the fact that the foreign spouse is not so fluent in Korean at the time of divorce, thereby missing the fact that the foreign spouse can develop proficiency in Korean if he or she keeps on leading a social life and making an intentional effort. In particular, the Multicultural Families Support Act stipulates that the State and local governments shall provide an education designed to give a better understanding of different cultures and shall take other

measures, such as a campaign to prevent social discrimination and prejudice against multicultural families and encourage members of society to acknowledge and respect the cultural diversity (Article 5(1)); the State and local governments may provide immigrant spouses with basic information for living in Korea and Korean language education to enhance their communication skills (Article 6(1)); and that this Act shall still apply to the children who were once members of the family, even if a multicultural family breaks up due to divorce or other causes (Article 14-2)).

- Opinion: The Court of Appeals erred by carrying out a faithful deliberation and misconstruing the principle of law regarding parental and custodial rights, thereby appointing the plaintiff as the custodial parent of the child and making decisions on the alimony and visitation rights.
 - It is hard to find a reasonable justification to change the current way of raising a child by appointing the other parent as a person with parental authority over and custody of the child.
 - The defendant had been peacefully raising her elder daughter (who was two years old at the time of separation) for over two years since the separation and in the period leading up to the divorce trial. It is hard to justify that the defendant's parenting method, affection for and intention of raising the child, financial capability, and intimacy with her minor child are less suitable than those of the plaintiff.
 - It is difficult to ascertain that the defendant's lack of Korean skills is a major reason the defendant is not suitable as a custodian.
 - Despite the plaintiff's alleged concerns that the inability of the defendant's mother, who would be the secondary caregiver, to speak Korean would hinder the child's progress in language acquisition and adaptation to schools, the plaintiff failed to substantiate his claim beyond the obscure speculation that the current parenting method is not desirable for the sound growth and welfare of the minor child.
 - It seems that the defendant had neither been given enough time to properly acquire the Korean language due to the plaintiff's repeated pregnancy and childbirths nor educational opportunities. It is unreasonable to exclude the possibility that the defendant's Korean skills may improve with time, although her Korean communication skills at the time of the divorce proceedings may not be perfect.

Implication of the Decision

- The Supreme Court made it clear in this decision what matters in appointing a custodian that will cause a change in the parenting status and how a foreign spouse's language skills should be considered in determining his or her parenting suitability. Thereby, the

Supreme Court put forward an essential principle of law about the Family Court's appointment of a custodial parent when it comes to respecting multicultural families and the welfare of a minor child.

Reference: <https://library.scourt.go.kr/search/judg/judgDetail?seqNo=5397&kindCode=2&langCode=1>

Living with a Companion Animal in Korea



Companion Animals as a Family Member

With the increase of single households in Korea, the number of families living with pets has been on the rise. According to research conducted by the KB Financial Group, approximately 30 percent of total households in Korea are living with pets as of 2020. Along with this trend, newly coined terms are now widely used in the pet community, which include petfam—a portmanteau of “pets” and “family,” meaning a family with pets—and petconomy—from “pet” and “economy,” referring to the pet industry.

Interestingly, Koreans are now using the expression “ban-ryeo” to describe their pets, which means “companion” in Korean. The word was initially used to modify people such as family members or close friends; however, the recent usage reflects how Koreans view their pets not merely for entertainment but as life companions. In line with such changes in the perception of animals in Korea, the Ministry of Justice (MOJ) has pre-announced legislation regarding the de-objectification of animals in the Civil Act (bill submitted as of ‘21. 10.). In addition, the

government has provided appropriate guidelines and restrictions to protect animals safely in our society.

Registering Companion Animals

The current Animal Protection Management System, managed by the Animal and Plant Quarantine Agency of Korea, requires dogs more than three months old raised at home for companionship to be registered. First introduced by local governors in 2008, it came into effect nationwide in 2014. It is designed to protect society by preventing animal loss or abandonment and the spread of zoonotic diseases by encouraging responsible ownership of companion animals.

According to the system’s guidelines, owners or keepers of pets can apply for pet registration by embedding a Radio-Frequency Identification (RFID) microchip in the animal or attaching an external RFID device. First, the owner should request registration by visiting designated veterinary clinics or animal protection centers with their pet. The veterinarian will perform a physical examination at the center and operate surgical

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**반려견 등록,
선택이 아닌 필수입니다**

문의: (국번없이)120, 1577-0954



procedures to insert the RFID microchip or attach an external device. After the procedure, the local government office will issue a pet registration certificate containing a registration code and information about the pet owner.

Heading Outdoors with Animals

When taking pets outdoors, it is essential to keep note of regulations to protect the pet and pedestrians. According to the Enforcement Rule of the Animal Protection Act, a neck leash shall be used outdoors for animals subject to registration and shall be maintained within two meters.

Owners or keepers of dog breeds classified as “dangerous dogs” must undertake additional responsibility when heading outdoors. The Animal Protection Act defines dangerous dogs as those who put the public at risk for death or injury and categorizes breeds, namely the Japanese mastiff (Tosa), pit bull terrier, or rottweiler. The Act prescribes the management of hazardous dogs in detail, including the regulation that owners of such dogs of at least three months shall attach a safety device, such as a leash or a muzzle, that could prevent the dangerous dog from escaping.

When owners wish to use public transportation with their pets, they should check with the transportation management beforehand to abide by the regulations. Under the Passenger Transport Service Act, a driver may refuse any animals that could inflict injuries or threaten other passengers from using the transportation at their discretion. Small animals safely placed inside appropriate carriers are allowed to board buses or subways. In this case, the animal and carrier should be less than 20 kg and within the size of 50*40*20 cm. Guide dogs for disabilities are exceptions to these regulations and can use transportation freely. When using the KTX trains, the Korea Railroad Corporation requires owners to place the animal inside carriers so that it is not visible to other passengers and to vaccinate the animal against rabies.

Rescuing and Protecting Animals

One may spot an animal without its owner on the streets. Before approaching the animal, it is best advised to contact the local district office or animal control centers. In cases where the animal is wearing an

external identification tag, it will be easier to contact the pet's owner by using the information on the tag. If the animal does not have a tag, veterinary clinics nearby can examine it to find signs of embedded microchips. However, if the animal is big-sized and likely to show aggressive behavior, it can be dangerous to approach it hastily. Instead, it would be safer to consult with animal control professionals for an effective rescue.

If an owner loses their pet, searching should begin immediately, starting from the surrounding areas of its home. If the pet is registered, the owner should report the loss on the Animal Protection Management System website, where relevant information, including its name, owner’s contact information, breed, and other characteristics, can be posted. Next, the owner should notify veterinary clinics or lost animal centers seeking help. It is also helpful to visit police stations within the district, or the police lost and found information website (LOST112) to check for any latest news about lost animals.

Case Studies

1. Ms. A is a Canadian citizen who takes care of a small-sized dog that is over 90 days old. The dog has been vaccinated for rabies. If Ms. A plans to travel to Korea with her dog, what procedures does she have to take? For travelers planning to bring cats or dogs to Korea, it is critical to check if they are coming from a rabies-free country or not. The Animal and Plant Quarantine Agency of Korea does not require cats and dogs younger than 90 days or from rabies-free countries to be vaccinated against rabies. Still, they should have microchips implemented in them. In addition, the owners shall prepare an official health certificate that states the animal's microchip number and birth date to submit to the animal quarantine officer upon entry.

Both a microchip implant and a rabies-neutralizing antibody test are mandatory for cats and dogs aged 90 days or older from countries that are not rabies-free. The antibody test must be administered by an internationally approved laboratory and conducted within 24 months of boarding. The owner shall submit a health certificate stating the microchip number and the result of the rabies antibody test to the animal quarantine officer at the entrance.

In Ms. A's case, she first needs to check if she microchipped her dog. Furthermore, as Canada is not considered a rabies-free country as of



October 2022, Ms. A's dog needs to undergo a rabies-neutralizing antibody test from an internationally approved laboratory. The health certificate and the antibody test result should be ready for submission upon entry. Moreover, as the list of rabies-free countries is subject to change, those planning to import cats or dogs to Korea should check the most updated list on the Animal and Plant Quarantine Agency before travel.

2. Mr. B is peacefully taking a walk around a park in his neighborhood. In the middle of his walk, he encounters a middle-sized dog walking with its owner on a leash. The dog suddenly turns around and bites Mr. B's leg as he passes by. How should he deal with this situation?

Infection from dog bites can cause severe medical complications if not promptly treated; therefore, it is crucial to administer first aid and seek professional medical treatment regardless of its severity. Mr. B should wash the bite area with running water and soap to prevent bacterial infection. Rubbing the wound can increase the possibility of infection, so it is advisable to put pressure on the wound with sterile gauze or a clean cloth. Next, Mr. B should visit a nearby hospital or clinic to have the injury examined and receive treatment. If possible, it would be helpful for Mr. B to ask the dog's owner about its medical and vaccination history before leaving the site so that he can inform the doctor of such information.

According to the National Fire Agency of Korea, over 2,000 dog bite accidents occurred each year from 2016 to 2020. As dog bites may lead to rabies virus infection or tetanus, being vaccinated for tetanus beforehand and vaccinating pets for rabies are effective preventive measures against widespread infection. Under the current law, dog owners can face civil and criminal liability if the dog causes physical harm to other people. Therefore, owners need to take preventive measures and adequately control their dogs, such as using an appropriate leash or muzzle, to avoid possible accidents.

Conclusion

The decision to live with a pet will open new doors in life—your new animal companion can provide emotional support, reduce loneliness, and help relieve stress or anxiety. At the same time, significant responsibilities come with taking care of the animal as well. To create a safe community for everyone, both people and animals, being well aware of pet-relevant regulations and etiquette will be essential.

For More Information about Pets in Korea

Animal Protection Management System	www.animal.go.kr +82-1577-0954
Animal and Plant Quarantine Agency	www.qia.go.kr +82-54-912-1000
Seoul Animal Care Center	www.animal.seoul.go.kr +82-2-2124-2839

K-Musicals Come into the Limelight



Musicals have emerged in popularity among culture-loving Koreans. Musicals provide elements of both visual and audible entertainment as well as long-lasting memory. You can enjoy musicals no matter who you go with, whether it is your friend, partner, family, or even alone, as you will find yourself immersed in the high-quality music and scenes acted by world-class performers. If you have not yet been to musicals in Korea, you may be missing out on a significant part of K-culture. I have included a list of upcoming musicals for you to read at the end of this article, so stay tuned.

Booking a Ticket

Because of their fame and A-list musical casts like Ock Joo-hyun, Park Hyo-shin, and Kim Joon-su, tickets for popular musicals often get sold out instantly upon they go on sale online. The term ‘Picketing’ is coined in Korea, which means ‘bloody ticketing’, denoting a ticketing battle. Therefore, you must check the date of the ticket sales opening in advance and be prepared accordingly. As someone who has won the ticketing battle several times, I will share some small yet useful tips for booking tickets. You can also use these tips for other shows, like concerts.

1. Star or bookmark your favorite casts.

If you have your favorite casts (it can be one of the K-pop idols as they often feature in musicals) and you do not want to miss their show, you can bookmark them on one of the ticket vendor sites. It will then notify you via email or text message when it has an upcoming show featuring them. You can find this function on most websites; I recommend Interpark Ticket, as it is one of the top vendor sites that provides an English version for global fans and easily navigable. You can either go to its website or download its application, search the cast’s name in the search bar, and bookmark them.

2. Check out where you want to book your tickets.

You can book your ticket online or mobile application. Still, I recommend booking your ticket online as it has a wider screen to see the seat arrangement conveniently and help avoid clicking mistakes. Tickets are available on multiple vendor sites, so check them out to see which one offers the most seats, and navigate their page to familiarize yourself with the system in advance. On the ticketing day, it is good to have at least two sites opened as people can flock to the site that provides the most seats, and another site may provide a shorter wait list. In addition to Interpark, I recommend checking out Melon Ticket, a top vendor site with a global page. If you have a KakaoTalk account, you can effortlessly create a new account by linking it to the Melon Ticket account.

global
INTERPARK

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CONCERT

MUSICAL

COMPANY

Home > Musical

To purchase tickets,
only credit cards can be used

Please bring the credit card
used to purchase to the venues

Present your credit card to the
ticket box to receive the tickets

50

Musical <WEST SIDE STORY>

Nov 17, 2022 ~ Feb 26, 2023
Chungmu Arts Center, Grand Theater
Cast : Kim Junsu, Koh Eun Seong, Leo, Kim Sohyang

[View Tickets](#)

Musical <ELISABETH> 10th Anniversary

Aug 30, 2022 ~ Nov 13, 2022
BLUE SQUARE Shinhancard Hall
Cast : Ock Joo-hyun, Lee Ji-hye, Shin Sung-rok, Kim Junsu

[View Tickets](#)

Musical <KINKY BOOTS> - Busan

Dec 24, 2022 ~ Jan 01, 2023
Busan Dream Theater
Cast : Kim Hoyoung, Shin Jae Beom, Jae-lim Choi, Suh Kyung Soo

[View Tickets](#)

3. Prepare a Plan B.

Every musical has different schedules with different lead and supporting actors. Your preferred date starring A-list actors and/or with curtain calls when you are allowed to take pictures of the actors at the end is likely in high demand. To plan for the worst, pick the other two dates at least (preferably featuring different actors) as a plan B in case it does not go according to your plan.

You should also plan for where to sit. If you want to know which seat offers the best and worst views, you can go to the “Seeya!” website and read reviews. You can also write reviews afterward to help people decide their seat.

4. DO NOT refresh when the time hits.

On the ticketing day, if you go to the ticketing page of the musical you want to book a few hours earlier, you will see a timer that shows the remaining time until the ticket sales open. This timer turns into a ‘Booking a Ticket’ button when it is on time. It is important to hit the button to start the booking process as soon as it is activated. Never refresh your page because it will just delay your turn. Also, make sure

that your computer uses the Korean time zone as the system gets activated according to it.

What to do before watching musicals

If you successfully booked your ticket, it is time to think about what to do before watching the show to make the most of your day. The top musical venues in Seoul include Charlotte Theater in Jamsil, Blue Square in Itaewon, Chungmu Arts Center in Jung-gu, and Sejong Arts Center in Jong-ro. There are usually plenty of restaurants and cafes near each venue, and sometimes the tickets are sold in a bundle with entrees at high-end restaurants or a cup of premium coffee at a café. In the case of Charlotte Theater, the Lotte World amusement park, Lotte Hotel, and Lotte Department Store which houses lots of shopping malls and restaurants are right around the corner. So if you stay at Lotte Hotel, be sure to check out Lotte World and shows at the Charlotte

Theater. Blue Square is also conveniently located near Korea’s one of the hottest places for foreigners, Itaewon, so you can enjoy many unique places, bars, and restaurants in your pastime and finish your day with watching a musical as icing on the cake.

Most musical venues offer service to lend opera glasses (handy binoculars). Some of them are on a first-come, first-served basis, and others require reservations. I highly recommend borrowing an opera glass or buying one if you are a musical lover. It will immensely enhance your viewing experience, especially if your seat is far away from the stage. It will allow you to see the performers’ facial expressions. You will need to visit the venue’s website to see if they offer such a service. I recommend arriving about an hour early to print your ticket, pick up your opera-glass, and look around the theater. The tickets can be printed at the kiosk or in person at the counter. You will easily see where you should go to print your tickets once you enter, but if you need assistance, you can always ask the nearby employer who will kindly assist you. After you print your ticket, you can shop limited-edition merchandise developed by the production house and/or look for photo spots while waiting for the show to start. Be sure to enter the theater before the show starts, as you cannot go in once it starts.

Korean Musical Market

The Korean musical market comprises the top four markets in the world, following the United States, the United Kingdom, and Japan. It has tripled in size from 110 billion won in 2006 to 350 billion won in 2019, according to the latest data prepared by the Korea Arts Management Service (KAMS) based on ticket sales via Interpark.

The Korean musical market consists of locally produced musicals, licensed foreign musicals, and foreign musicals on tour. Although musicals developed by production houses in the United States or the United Kingdom dominate the market, the popularity of locally produced musicals is steadily on the rise. The KAMS data shows that licensed musicals accounted for a market share of 67 percent (116.6 billion won) in 2016 but declined to 48 percent (35.7 billion won) in 2020. In contrast, Korean musicals accounted for a market share of 26 percent (45.5 billion won) in 2016 and increased to 36 percent (26.7 billion won) in 2020. Technology transfer has contributed to the increased competitiveness of Korean musicals. Experts comment that skilled performers have supported the growth of the domestic musical industry. By contrast, the development of stages has been galvanized through cooperation among musical staff from overseas, avid musical fans with high expectations, and production teams who continually respond to feedback to improve performances.

According to the latest KOPIS report, the Korean musical market peaked in the first half of 2022, generating sales of 183 billion won, which more than doubled from 91 billion won in the first half of last year, an unprecedented rate of growth even compared to the pre-pandemic level. Such growth was driven by the abating effect of Covid-19 coupled with the success of licensed and original musicals in off-season May and June. 'Jekyll and Hyde, 'Death Note,' and 'Lion King International Tour (Seoul)' stood as the highest-grossing shows for the first half year. Not only did those musicals performed in big theaters with more than 1,000 seats, but original musicals such as 'Mata Hari,' which premiered in May, reaped remarkable success with a high overall rating of 9.3 based on Interpark. It is expected that the musical industry will continue to maintain this growth in the remaining year with the opening of large-scale hit musicals like 'Moulin Rouge' and 'Sweeney Todd'.

Upcoming musicals

	Sweeney Todd	West Side Story	Moulin Rouge
Date	2022.11 ~ TBA	2022.11.17 ~ 2023.02	2022.12 ~ TBA
Venue	Charlotte Theater	Chungmu Arts Center	Blue Square Shinhan Card Hall
Cast	TBA	Kim Joon-su Park Gang-hyun Ko Eun-sung	TBA
Synopsis	One of the darkest musicals ever written, 'Sweeney Todd' is the unsettling tale of a Victorian-era barber who returns home to London after fifteen years of exile to take revenge on the corrupt judge who ruined his life.	'West Side Story' is the award-winning adaptation of the classic romantic tragedy "Romeo and Juliet". The feuding families become two warring New York City gangs — the white Jets led by Riff and the Latino Sharks led by Bernardo. Their hatred escalates to a point where neither can coexist with any form of understanding.	'Moulin Rouge' is set in the Montmartre Quarter of Paris, France, during the Belle Époque at the turn of the 20th century. The musical relates the story of Christian, a poor Bohemian poet, who falls in love with Satine, a beautiful courtesan and star of the Moulin Rouge, coveted by a jealous duke.

	'Hero'	Phantom of the Opera
Date	Seoul: 2022.12 ~ 2023.02, 2023.03 ~ 2023.05 Domestic tour: 2023.05 ~ 2023.08	2023.03 ~ 2024.02
Venue	LG Arts Center Blue Square Shinhan Card Hall	TBA
Cast	TBA	TBA
Synopsis	The story follows An Jung-geun, a Korean independence activist responsible for the 1909 assassination of Ito Hirobumi, then a Japanese administer of power in Korea, just as Japan was gearing to annex Korea.	The story revolves around a young soprano who becomes the obsession of a disfigured and murderous musical genius that lives beneath the Paris Opera House.

History of Korea's Constitution: How Basic Human Rights Have Expanded



Over the last 40 years, Korea's Constitution has been amended once in every 5 years on average, and the current Constitution, revised in 1987, is the oldest working constitution in Korean history. While the Constitution experienced many alterations through these amendments, the most crucial feature is how the fundamental role of the constitution, which ensures basic human rights, has changed. Let us review how the Constitution expanded the rights of the public to protect the freedom of people.

The First Republic

The First Constitution was promulgated in July 1948, three years after Korea's liberation from Japan. It was comprised of 10 chapters and 103 articles that guaranteed national sovereignty, freedom, and equality. Referring to that of major western countries, the Constitution upheld universal values, majorly protecting the rights of the people such as equality before the law and equal opportunities. It guaranteed the basic principles of labor rights, including the right to assemble, the right to

collective bargaining, and the right to collective action. It also emphasized social rights, such as the right to receive an education corresponding to each citizen's abilities and elementary education free of charge. Employees in private enterprises were guaranteed the right to share portions of profits as prescribed by law.

On the other hand, the Constitution illustrated many socialistic ideas influenced by the political trends of the time. Socialism and socialist beliefs prevailed in the world during the early and mid-19th centuries. The prime examples were the Constitution of the German Reich in 1919 and the Russian Constitution of 1918; Korea's first Constitution was not an exception. For instance, it featured the land-to-the-tillers principle which proposed that cultivators should be the owner of the land they cultivate. At the same time, the State regulated and coordinated economic affairs to maintain the balanced growth and stability of the national economy. Regulations targeted minerals and other important underground resources as well as community interest companies, which were nationalized, collectivized or owned by the government. Consequently, the Constitution guaranteed property rights in theory, but those relating to production or public interest still belonged to the society.

The first amendment was created in July 1952 in Busan during the Korean War, ahead of Rhee Syngman's re-election. Despite a serious conflict between the ruling and the opposition parties, Rhee led an amendment to remove term limits on himself, adopting direct presidential elections and a bicameral legislature. The second amendment took place in November 1954. This revision was initially rejected due to the lack of a quorum to pass a bill. Nevertheless, the government party rescinded the rejection, insisting 135 was the number needed for passing a bill according to the rule of rounding off to the nearest integer. This amendment retracted limits on the second term for the first President and allowed Vice President to fill vacancies in the office of the president, to prolong the rule of the Liberty Party.

The Second Republic

Following the popular protests and student revolution against rigged elections in 1960, which eventually led to the resignation of Syngman, the constitution was amended in June 1960 to introduce a parliamentary system of government, constituting the Second Republic. Major changes in basic rights happened during the third amendment under the Heo Jeong Interim Government. The third amendment reinforced basic rights by guaranteeing the freedom of the media, the press, the association and the assembly. All freedoms and rights of the people shall not be restricted except for maintaining public order and welfare. Such restriction shall not undermine the essence of freedom and rights, such as the freedom of the media, press, association and assembly. The fourth amendment was followed in November 1960 which allowed the retroactive punishment of those guilty of election irregularities, corruption and appropriation of public property under the inclusive designation of 'anti-democratic' acts.

The Third Republic

The fifth amendment to the constitution in December 1962 gave birth to the Third Republic. The government was under a presidential system again, and the parliament became the unicameral legislature. The basic tenet of the Constitution was to reinforce the basic rights, emphasized in Article 8 which reads: "All citizens shall have the dignity and value as human beings, and it shall be the duty of the state to guarantee fundamental rights of the people to the utmost." The fifth amendment guaranteed many rights of various fields, such as the right to a life worthy of human dignity, the right to remain silent, the right not to be tortured, and the right to claim an expeditious or a public trial. It also distinguished the freedom of conscience from the freedom of religion. At the same time, it limited the admissibility of involuntary confession and

prohibited the deprivation of property or political rights through retrospective legislation, as well as defamation by the media or the press.

The ruling party undertook the sixth constitutional amendment in October 1969 to authorize a third term for the President Park Chung-hee. Despite strong resistance from the opposition, the amendment was passed in the Assembly and approved in a referendum.

The Fourth Republic

President Park, in his third term, invoked martial law in anticipation of the North-South Korean dialogue in December 1972. The constitution was suspended, and an extra-constitutional power dissolved the National Assembly. Soon the State Council, temporarily substituting the Assembly, took up a constitutional amendment bill, which was approved with 91.5% in a referendum, launching the Fourth Republic. This constitution brought about the so-called 'Yushin Cheje (Restoration Order).' Under this constitution, the president was vested with nearly unlimited powers overriding the other separate branches of government: he was free to serve as many terms as the National Congress for Reunification may decide; he could name one-third of the members of the National Assembly and dissolve the legislature; he could appoint judges, including the chief justice, and; he was authorized to issue extraordinary measures which could suspend constitutional provisions.

Basic rights were mostly weakened under the president's long-term reign. The seventh amendment of the Constitution restricted basic rights for national security and abolished the review of legality for confinements. It also deleted the clause concerning 'The essence of the basic rights', 'The freedom of the media and the press against censorship', and the 'Limited admissibility of an involuntary confession.'

The Fifth Republic

The 'Restoration Order' came to a sudden end with the assassination of President Park Chung-hee. Another coup was staged in the ensuing interregnum. On the initiative of the interim president, a new amendment was drafted by the Constitution Deliberation Committee operating under the prime minister and approved in a referendum in October 1980, establishing the Fifth Korean Republic. Under this Constitution, the president would serve only one seven-year term. Although the extension of the presidential term was possible by constitutional amendment, such a change would not apply to the president in office. This explicit prohibition of constitutional amendment for the extended rule was a distinctive component of the new constitution.

The new constitution removed many undesirable provisions in the

Restoration Order Constitution. It resurrected many deleted clauses and reinforced basic rights. New rights were guaranteed, such as the right to pursue happiness, the freedom and privacy of personal life, the environmental right, and the right to receive an optimal wage. The criminal defendant was presumed innocent, while the review of legality for confinement was again systemized.

The Sixth Republic

People collectively protested against the military government led by Chun Doo-hwan for the direct election of the President and real expansion of basic rights. As a result, the ninth amendment was made in October 1987. The Constitution was revised and proclaimed by mutual agreement for the first time in Korean history. In this sense, the constitution had more legitimacy than any earlier amendment. The ninth amendment brought a significant change regarding the rights of the public – basic rights have improved drastically compared to the First Constitution. The principle of due process of law was featured,

designed to protect citizens from abusive actions taken by the government. Criminal victims were guaranteed rights to state in the judgmental proceedings and to receive aid from the government. The freedom of speech and press against censorship was again resurrected. New rights, such as the right to receive the minimum wage were illustrated, while the protection on the rights of women, mothers, seniors, and adolescents was stipulated. The State was also obligated to guarantee pleasant residential living and to endeavor to prevent disasters.

Recent Constitution Reform Efforts

There are some rights that exist in theory but have yet to be incorporated into case law that may be added to the constitution, such as right to live (safely), the related rights to information, rights of consumers, right to conscientious objection, right of asylum, etc. There are also proposals for the decentralization of powers and the inclusion of mechanisms for direct democracy to allow citizens to propose laws.

Republic	Amendment	Promulgated	Content
First Republic	1 st Constitution	1948.7.17	Guaranteed <ul style="list-style-type: none">• The land-to-the tillers principle• The right to assemble• The right to collective bargaining• The right to collective action• The right to petition for the dismissal of public official who committed an illegal act to citizen(s)• The right to receive an education corresponding to each citizen's abilities• Equality before the law• Equal opportunities• Employees' rights to share profits of private companies Systemized <ul style="list-style-type: none">• The review of legality for confinement• Elementary education free of charge
	1 st amendment	1952.7.7	Adopted direct presidential elections and a bicameral legislature
	2 nd amendment	1954.11.29	Retracted limits on the second term for the first President
Second Republic	3 rd amendment	1960.6.16	Guaranteed <ul style="list-style-type: none">• The freedom of the media, the press, the association, and the assembly against censorship• The essence of the basic rights
	4 th amendment	1960.11.29	Allowed the retroactive punishment of those guilty of ‘anti-democratic’ acts.
Third Republic	5 th amendment	1962.12.26	Guaranteed <ul style="list-style-type: none">• Human dignity and value• The freedom of conscience, distinguished from the freedom of religion• The freedom of occupation• The right to a life worthy of human dignity• The right to remain silent• The right not to be tortured• The right to claim an expeditious trial• The right to claim a public trial

Republic	Amendment	Promulgated	Content
Third Republic	5 th amendment	1962.12.26	Allowed <ul style="list-style-type: none">• Censorship on movies and entertainments Deleted <ul style="list-style-type: none">• The clause concerning ‘Equal rights to share profits of private companies’ Limited: <ul style="list-style-type: none">• The admissibility of involuntary confession Prohibited <ul style="list-style-type: none">• The deprivation of property or political rights through retrospective legislation• The defamation by the media or the press
	6 th amendment	1969.10.21	Authorized a third term for the President
Fourth Republic	7 th amendment	1972.12.27	Allowed <ul style="list-style-type: none">• Restriction on the basic rights for national security Deleted <ul style="list-style-type: none">• The clause concerning ‘The essence of the basic rights’• The clause concerning ‘Freedom of the media and the press against censorship’• The clause concerning ‘Limited admissibility of involuntary confession’ Abolished <ul style="list-style-type: none">• The review of legality for confinement Prohibited <ul style="list-style-type: none">• Double indemnity
Fifth Republic	8 th amendment	1980.10.27	Guaranteed <ul style="list-style-type: none">• The right to pursue happiness• The freedom and privacy of personal life• The criminal defendant being presumed innocent• The environmental right• Optimal wage Systemized <ul style="list-style-type: none">• Review of legality for confinement Abolished <ul style="list-style-type: none">• The guilt-by-association system
Sixth Republic	9 th amendment	1987.10.29	Guaranteed <ul style="list-style-type: none">• The principle of due process of law• The notification of imprisonment• The right of the criminal victims to state in hearing proceedings• The right of the criminal victims to receive aid from the state• The freedom of speech and press against censorship• The right to pleasant residential living• The protection of the rights of women, mothers, seniors and adolescents.• Autonomy of colleges Obligated <ul style="list-style-type: none">• The enforcement of the minimum wage system• The state to endeavor to prevent disasters

Government Departments

Anti-Corruption & Civil Rights Commission

<http://www.acrc.go.kr/eng/index.do>
82-44-200-7151~6

Constitutional Court of Korea

<http://english.ccourt.go.kr/>
82-2-708-3460

Fair Trade Commission

<http://eng.ftc.go.kr>
82-44-200-4326

Financial Services Commission

<http://www.fsc.go.kr/eng/index.jsp>
82-2-2156-8000

National Assembly Law Library

<http://law.nanet.go.kr/eng/index.do>
82-2-788-4111

Judicial Research & Training Institute

<http://jrti.scourt.go.kr/>
82-31-920-3114

Korea Communications Commission

<http://eng.kcc.go.kr/user/ehpMain.do>
82-2-500-9000

Korea Consumer Agency

<http://english.kca.go.kr/index.do>
82-43-880-5500

Korea Customs Service

<http://english.customs.go.kr/>
82-1577-8577

Ministry of Food and Drug Safety

<http://www.mfds.go.kr/eng/index.do>
82-43-719-1564/ 82-1577-1255

Korean Intellectual Property Office

<http://www.kipo.go.kr/kpo/user.tdf?a=user.english.main.BoardApp&c=1001>
82-42-481-5008

Korea Law Service Center

<http://law.go.kr/LSW/main.html>
82-2-2100-2520
(Ministry of Government Legislation)/
82-2-2100-2600
(Legislative Research Services)

Korea Meteorological Administration

<http://web.kma.go.kr/eng/index.jsp>
82-2-2181-0900

Korean Bar Association

<http://www.koreanbar.or.kr/eng/>
82-2-3476-4008

Korean Library Information System Network

<http://www.nl.go.kr/kolisnet/index.php>
82-2-590-0626

Korean National Police Agency

<http://www.police.go.kr/eng/index.jsp>
82-182

Ministry of Agriculture, Food and Rural Affairs

<http://english.mifaff.go.kr/main.jsp>
110 (from Korea) / 82-2-6196-9110 (from overseas)

Ministry of Culture, Sports and Tourism

<http://www.mcst.go.kr/english/index.jsp>
82-44-203-2000

Ministry of Education

<http://english.moe.go.kr/enMain.do>
82-2-6222-6060

Ministry of Employment and Labor

<http://www.moel.go.kr/english/main.jsp>
82-52-702-5089 (National Labor Consultation Center)
82-44-202-7137 (International Cooperation Bureau)
82-44-202-7156 (Foreign Workforce Division)

Ministry of Environment

<http://eng.me.go.kr/>
82-44-201-6568 / 82-1577-8866

Ministry of Foreign Affairs

<http://www.mofa.go.kr/eng/index.do>
82-2-2100-2114

Ministry of Gender Equality and Family

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Ministry of Justice

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https://www.unikorea.go.kr/eng_unikorea/
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National Intelligence Service

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National Research Foundation of Korea

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National Tax Service

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<http://www.welfare.or.kr/>
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Public Procurement Service

<http://www.pps.go.kr/eng/index.do>
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Ministry of SMEs and Startups

<https://www.mss.go.kr/site/eng/main.do>
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Statistics Korea

<http://kostat.go.kr/portal/english/index.action>
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Supreme Court Library of Korea

<https://library.scourt.go.kr/base/eng/main.jsp>
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Supreme Prosecutors' Office

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The Supreme Court of Korea

<http://eng.scourt.go.kr/eng/main/Main.work>
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The National Assembly of the Republic of Korea

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The Rule of Law Based on Justice and Common Sense

Emblem

The Republic of Korea government has changed its official “government identity.” The new logo conveys the dynamism and enthusiasm of the country with the three colors of blue, red and white. It echoes off Korea’s national flag *Taegeukgi* with the *taegeuk* circular swirl and the blank canvas embodies in white. The typeface

was inspired by the font used in the “*Hunminjeongeum*” (1446), the original *Hangeul* text, in consideration of the harmony embodied in the *taegeuk* circle. Starting March 2016, the new logo is used at all 22 ministries including the Ministry of Justice and 51 central government agencies.



Ministry of Justice, Republic of Korea



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